



UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

CHAMBERS OF
DONOVAN W. FRANK
DISTRICT JUDGE
WARREN E. BURGER FEDERAL BUILDING
AND UNITED STATES COURTHOUSE
316 NORTH ROBERT STREET, SUITE 724
ST. PAUL, MINNESOTA 55101
(651) 848-1290

October 2, 2024

VIA U.S. MAIL AND CM/ECF

Hon. William E. Phillips, II
Suite 316
107 E Main Street
Rogersville, TN 37857

Hon. I'Aesha L. Myles
Suite 407
1 Public Square
Nashville, TN 37201

Hon. Nicholas Ostuni
Bergen County Justice Center
10 Main Street, Floor 4
Hackensack, NJ 07601

Hon. Stephanie F. Tew
Judge Daniel T.K. Hurley Courthouse
205 North Dixie Hwy.
West Palm Beach, FL 33401

Hon. Gabrielle Sanders-Morency
Jon B. Morgan Osceola County Courthouse
2 Courthouse Square
Kissimmee, FL 34741

Hon. Tanya L. Thorp
c/o King County Superior Court
516 Third Avenue, Room C-203
Seattle, WA 98104

Re: MDL 3108 Change Healthcare et al.

Dear State Court Judges:

By order dated June 7, 2024, the Judicial Panel on Multi-District Litigation ("JPML") determined that a number of federal *Change Healthcare* cases involve common questions of fact and that centralization of the *Change Healthcare* cases was appropriate. The JPML ordered that such cases be transferred to the United States District Court-District of Minnesota and assigned me to coordinate discovery and other pretrial matters. To date, the MDL involves 59 cases, with 22 individuals (29 plaintiffs), 37 providers (117 plaintiffs) and, in each case, class action claims have been filed. The Court expects additional tagalong cases to continue to come in.

Magistrate Judge Dulce J. Foster is teaming up with me on these cases. Magistrate Foster will be available as the case progresses for specialized pretrial issues, including

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discovery issues and encouraging an early mediation process. Her assistance will expedite the matter.

There are also a number of *Change Healthcare* cases being litigated in state courts across the country. Presently, there are two individual cases pending before the JPML Panel and 6 state cases across the country which are class actions. Prior to coming to the federal bench in 1998, I was a state court judge for 14 years here in Minnesota. As a result of my state court experience, I am aware of and sensitive to issues confronting state-court judges when they have individual cases involved in a MDL case. In setting a schedule for the MDL case, I am mindful of the balance necessary to serve the interests of justice and the parties. On the one hand, the Court must ensure that these cases proceed ahead and expeditiously by the Court's efforts to coordinate discovery and move toward trial. Yet, on the other hand, the Court must ensure that the cases are not brought to trial in too hasty a manner, leading to a verdict for either side that does not represent a fair attempt at discovery and thus does not characterize the essence of the lawsuits.

I am writing this letter to you because I understand you have one or more of those state cases, and I would like your input concerning the coordination of the state and federal cases. In my previous MDL cases, the state and federal courts, with few exceptions, were able to coordinate pretrial matters to effectuate a meaningful and prompt resolution of those cases. My goal, of course, in addition to permitting fair discovery with meaningful discovery deadlines that will lead to meaningful bellwether trials and verdicts, is to minimize courts issuing conflicting orders concerning document production, document preservation, protective orders, discovery deadlines, protocols for electronic document production, and scheduling of depositions and deposition protocol. In fact, I anticipate that one of my pretrial orders will set up a system for cross-noticing depositions to avoid unnecessary duplication of effort. One benefit, of course, of state-federal coordination may be to prevent two or more courts from deciding the same issue. Similarly, I will do my part in minimizing the same witness being deposed more than once. I hope that such coordination will serve to balance the interests of the federal and state litigation.

I have issued, or will be issuing shortly, a number of pretrial orders that address issues regarding docket and filing procedures, confidentiality issues, preservation of records, and deposition guidelines. I also anticipate addressing early on motions to dismiss and of course the issue of the timing of class certification motions. Eventually, I will issue an order setting up the procedure by which the lawyers involved in the case will identify bellwether or representative cases to be tried. My schedule will

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accommodate such trial dates as the interests of justice and the interests of the parties would serve.

I have also appointed a Lead Counsel Committee and a Plaintiffs' Steering Committee to represent the interests of Plaintiffs as well as Liaison Counsel for the District of Minnesota and Liaison Counsel to the State Courts. Defendants' Lead Counsel and Liaison Counsel have also been designated. In addition, I will be conducting monthly Status Conferences. The District of Minnesota has also established a website dedicated to this litigation to inform Plaintiffs, potential Plaintiffs, counsel, and the general public as to the status of the case. The website's address is: <https://www.mnd.uscourts.gov/content/change-healthcare-inc-data-breach>

I would greatly appreciate your input on anything that we can do to increase the coordination of state and federal cases without compromising the rights of individual litigants, while, at the same time, respecting the discretion of individual judges across the country.

If you have any questions, please do not hesitate to contact me. My e-mail address is: frank_chambers@mnd.uscourts.gov. Also, as I mentioned above, you can view any orders that I have issued thus far, and otherwise monitor the events in this case, by viewing MDL 3108 Change Healthcare, Inc. Data Breach at the Court's website.

Thank you for your attention to this matter. If you have any questions, please feel free to give me a call.

Very truly yours,

s/Donovan W. Frank

DONOVAN W. FRANK
United States District Judge

DWF/ljl